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Where the Bankruptcy Court has entered a final order or judgment, and a party contends that the Bankruptcy Court lacked constitutional or statutory authority to enter that final order or judgment, such party shall file an appeal in the manner specified in B.L.R. 8001-2, and all parties' briefs to the District Court shall:

- (a)** contain argument and information addressing whether the Bankruptcy Court had authority to enter the final order or judgment;
- (b)** contain all argument and information that the brief must contain if it were undisputed that the Bankruptcy Court had authority to enter the final order or judgment; and
- (c)** satisfy all the requirements of B.L.R. 9033-1, treating the findings of fact and conclusions of law of the Bankruptcy Court as proposed findings of fact and conclusions of law for that purpose.

Commentary

This rule is intended to clarify the issues that the parties must address in their appellate briefs to the District Court in a case in which the Bankruptcy Court has entered a final order or judgment, and a party contends on appeal that the Bankruptcy Court had authority only to submit proposed findings of fact and conclusions of law to the District Court. The briefs must address whether the Bankruptcy Court had authority to enter the order or judgment. The briefs must also address how the appeal should be resolved if the District Court determines that the Bankruptcy Court did have authority to enter the order or judgment. That is, the briefs must address whether the order or judgment should be affirmed under traditional standards of appellate review. Finally, the briefs must also address how the appeal should be resolved if the District Court determines that the Bankruptcy Court had authority only to submit proposed findings of fact and conclusions of law. In other words, the parties must satisfy all requirements that would apply if the Bankruptcy Court had submitted proposed findings of fact and conclusions of law to the District Court under B.L.R. 9033-1.

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